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IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

ERIC ANGEL THOMAS,

Petitioner,

v.

M. C. KRAMER, Warden,

Respondent.

07cv2257-IEG (BLM)

**REQUEST FOR ENLARGEMENT
OF TIME TO FILE A MOTION TO
DISMISS OR ALTERNATIVELY,
AN ANSWER TO PETITIONER'S
PETITION FOR WRIT OF
HABEAS CORPUS AND
DECLARATION OF KARL T.
TERP IN SUPPORT THEREOF**

Judge: The Honorable
Barbara L. Major

On December 19, 2007, this Court issued an Order requiring Respondent to file a Motion to Dismiss on or before February 4, 2008, or a Return on or before February 18, 2008. Respondent respectfully requests this Court grant Respondent an enlargement of time through April 7, 2008, to file a Response because declarant will be undergoing a medical procedure on February 11, 2008, which will require a week of recovery and will be out of the country on a prepaid vacation from February 29 through March 3.

1 For good cause stated in the attached declaration, respondent respectfully requests this
2 Court grant through April 7, 2008, to file either a Motion to Dismiss or a Return.

3 Dated: February 8, 2008

4 Respectfully submitted,

5 EDMUND G. BROWN JR.
Attorney General of the State of California

6 DANE R. GILLETTE
Chief Assistant Attorney General

7 GARY W. SCHONS
Senior Assistant Attorney General

8 PETER QUON, JR.
Supervising Deputy Attorney General

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11 s/Karl T. Terp

12 KARL T. TERP
13 Deputy Attorney General
14 Attorneys for Respondent

15 KTT:haj
70114445.wpd
16 SD2007701200

DECLARATION OF KARL T. TERP

I, Karl T. Terp, declare under penalty of perjury:

1. I am the Deputy Attorney General assigned to handle all matters in the instant case. On Monday, December 24, 2007, this Court's order was received and processed by declarant's office but declarant was out of town at a family reunion until Monday, January 31, 2007. Nonetheless, declarant's office requested records from the state courts necessary to address the issues raised by Petitioner and to determine the propriety of a Motion to Dismiss based upon timeliness and procedural bars.

2. Upon declarant's return on January 31, declarant resumed completing briefing on a complicated state direct appeal in *People v. Mancinas* (E042205), which briefing was due on or before January 11, 2008. Declarant completed briefing and filing in *Mancinas*, and while doing so received notice from the Ninth Circuit Court of Appeal on January 10, 2008, regarding *Madriaga v. Kane* (06-56133) that declarant's appeal in that case had been denied. Declarant then immediately began working on a petition for rehearing and suggestion for rehearing en banc which was timely filed. To work on *Madriaga*, declarant set aside *People v. Rivers* (E042437 which was in default requiring the respondent's brief to be filed on or before January 28, 2008,). The *Rivers* matter involved a reporter's transcript of approximately 2000 pages into considerable time to read and brief. Upon completion of that matter declared begin working on *People v. Robinson* (D050022), with a combined Reporter's Transcript in Clerk's Transcript exceeding 2000 pages, an eight issue appellant's opening brief with a companion four issue habeas corpus petition. Declarant is currently working on the *Robinson* matter and will be doing so for the next three weeks, except for the time declarant will be out of office (see paragraph 4 below). The court in *Robinson* has issued a notice pursuant to California Rules of Court, rule 8.220, requiring a briefing to be filed by February 13; declarant has sought two-week extension request, nonetheless.

3. Declarant is also responsible for the following matters: filing respondent's briefs in *People v. Sisneros* (E042862), for which a second extension of time has been received requiring the brief to be filed by February 25; in *People v. Johnson* (E042972), which is on second extension due February 21; in *People v. Mingo* (D051181), which is on second extension due February 27; in

1 *People v. Rich* (E042818), which is on second extension due March 5.

2 4. Declarant will be out on medical leave from February 11 through February 19. This
3 leave was not anticipated and declarant will be unable to work while on leave. Additionally, several
4 months ago declarant planned, received approval for and paid for a vacation from February 29
5 through March 7. Declarant has nonrefundable tickets for this vacation.

6 5. As a result of declarant's current workload, unscheduled medical leave, and vacation
7 declarant requests an extension of time to file the Response through April 7, 2008.

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s/Karl T. Terp

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KARL T. TERP

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DECLARATION OF SERVICE BY U.S. MAIL

Case Name: **Thomas v. Kramer**

No.: **07cv2257-IEG (BLM)**

I declare:

I am employed in the Office of the Attorney General, which is the office of a member of the California State Bar, at which member's direction this service is made. I am 18 years of age or older and not a party to this matter. I am familiar with the business practice at the Office of the Attorney General for collection and processing of correspondence for mailing with the United States Postal Service. In accordance with that practice, correspondence placed in the internal mail collection system at the Office of the Attorney General is deposited with the United States Postal Service that same day in the ordinary course of business.

On February 8, 2008, I served the attached REQUEST FOR ENLARGEMENT OF TIME TO FILE A MOTION TO DISMISS OR ALTERNATIVELY, AN ANSWER TO PETITIONER'S PETITION FOR WRIT OF HABEAS CORPUS AND DECLARATION OF KARL T. TERP IN SUPPORT THEREOF by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal mail collection system at the Office of the Attorney General at 110 West A Street, Suite 1100, P.O. Box 85266, San Diego, CA 92186-5266, addressed as follows:

Eric Angel Thomas
CDC # T-68246
F 1-3-104U
P.O. Box 79001
San Diego, CA 92179

I declare under penalty of perjury under the laws of the State of California the foregoing is true and correct and that this declaration was executed on February 8, 2008, at San Diego, California.

Karl T. Terp

Declarant

s/Karl T. Terp

Signature